

AN ACT to exclude certain inventory from the franchise tax minimum measure and apportionment formula property factor; to include certain equipment used in qualified, new or expanded warehouses or distribution facilities in the definition of "industrial machinery" for sales tax purposes; and to amend Tennessee Code Annotated, Sections 67-4-906, 67-4-910, and 67-6-102.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-906(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) The measure of the tax hereby imposed shall in no case be less than the actual value of the property owned, or property used, in Tennessee, excluding exempt inventory.

Tennessee Code Annotated, Section 67-4-906(a), is further amended by adding the following new subdivisions:

(8) "Exempt Inventory" shall mean that portion of a corporation's finished goods inventory in excess of fifty million dollars (\$50,000,000) for corporate fiscal years beginning on or after July 15, 1996, forty million dollars (\$40,000,000) for corporate fiscal years beginning on or after July 15, 1997, and thirty million dollars (\$30,000,000) for corporate fiscal years beginning on or after July 15, 1998 that would otherwise be included in the minimum measure of the corporation's franchise tax base.

(9) "Finished Goods Inventory" means tangible personal property which is:

(A) Owned by the taxpayer;

(B) Shown on the taxpayer's books and records kept in accordance with Generally Accepted Accounting Principles;

(C) Held for wholesale or retail sale; and

(D) In need of no further manufacturing or processing by or for the owner.

SECTION 2. Tennessee Code Annotated, Section 67-4-910(b), is amended by deleting the subdivision (1) in its entirety and substituting instead the following:

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in Tennessee Code Annotated, Section 67-4-906(a)(8), owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

SECTION 3. Tennessee Code Annotated, Section 67-6-102, subsection (12) is amended by adding at the end of the subsection the following new subdivision:

(G) Material handling equipment and racking systems, used directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, which are purchased within one (1) year prior to or after the completion of the construction or expansion of the facility. A "qualified, new or expanded warehouse or distribution facility" means a new or expanded facility, which meets the requirements set out herein, for the storage or distribution of finished tangible personal property not requiring further manufacture or assembly. Such facilities shall not include locations where tangible personal property is manufactured or sold directly to consumers. A qualifying facility must also be:

(i) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars (\$10,000,000) by the taxpayer, over a

period not exceeding two (2) years, in new building(s) and equipment for the facility; or

(ii) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (G)(i), through an additional investment in excess of ten million dollars (\$10,000,000) by the taxpayer, over an additional period not exceeding two (2) years, for additions to the building(s) and the purchase of new equipment for use in the expanded facility.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.

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